

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

RAMON SILVA,

Plaintiff,

Case No. C19-1294-RAJ

V.

CAMERON WALKER, *et al.*,

## Defendants.

ORDER GRANTING IN PART AND  
DENYING IN PART DEFENDANTS'  
MOTION TO DISMISS

The Court, having reviewed Plaintiff's complaint, Defendants' motion to dismiss, the  
and Recommendation of the Honorable Michelle L. Peterson, United States Magistrate  
any objections thereto, and the remaining record, hereby finds and ORDERS as follows:

(1) The Report and Recommendation is approved and adopted.

(2) Defendants' motion to dismiss this action pursuant to Fed. R. Civ. P. 12(b)(6)

(dkt. # 11) is GRANTED in part and DENIED in part. Defendants' motion is GRANTED to the extent Plaintiff claims that the deployment of pepper spray and placement on a restraint board constituted excessive force, and to the extent Plaintiff claims that Defendants failed to protect him from himself. Defendants' motion to dismiss is DENIED to the extent Plaintiff claims that

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1 his prolonged restraint and exposure to pepper spray without decontamination constituted  
2 excessive force and deliberate indifference.

3 (3) Defendants are directed to file an answer to Plaintiff's complaint addressing  
4 Plaintiff's remaining claim not later than *fourteen (14) days* from the date on which this Order is  
5 signed.

6 (4) The Clerk is directed to send copies of this Order to plaintiff, to counsel for  
7 defendants, and to the Honorable Michelle L. Peterson.

8 DATED this 17th day of April, 2020.

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12 The Honorable Richard A. Jones  
13 United States District Judge  
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